

Appln. No. 09/539,834
Amdt. Dated February 21, 2006
Reply to Office Action of August 18, 2005

REMARKS

In the Office Action, claims 7-13 were rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 5,765,606 to Takemasa et al. in view of United States Patent No. 4,490,963 to Knudsen.

The Examiner indicated that Takemasa discloses a product “package template (Fig. 6, via package V)” and that funnel 33 rotates “to selectively locate the funnel (33) over the individual ones of the package (V) in order to place one or more solid pharmaceutical products from the plurality of different drug sources (7) into each of said of packages”. The Examiner further finds that “Shimizu (sic) does not disclose a package template cavities” but that “Knudsen discloses a similar method of filling solid pharmaceutical product packaging comprising a package template cavities (Figs. 6 and 12; via 2)”. The Examiner then concludes that it would have been obvious to modify “Shimizu’s (sic) method of filling solid pharmaceutical product packaging by using a package template cavities . . . as suggested by Knudsen”.

Takemasa discloses a medication filling apparatus for filling a container with medications (Col. 1, lines 6-7). As described at column 6, lines 21- column 7, line 24 medications are dropped one by one and received by the turntable 16. . . the medications dropped onto the turntable 16 are collected and moved to the guide 21 . . . the microprocessor 45 selects an empty holder 33, drives the holder motor 39 to rotate the holder unit 31 and positions the empty holder 33 under the dispensing port 22 of the guide 21 . . . the microprocessor 45 swings the shutter 23 outward . . . to release the dispensing port 22 . . . when the dispensing port 22 is released, the medications aligned against the inner circumferential wall of the guide 21 are collected at the dispensing port 22 . . . and moved

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into the holder 33. . . . the operator attaches a bar code label L, which carries the barcode indicating one type of the medications specified by the dispense data, to the side face of a vial. . . when the container is inserted into the filling section 3B through the inserting opening 6 of medication filling apparatus 1, the bar code on the bar code label L is read through the barcode reader 42 . . . the microprocessor 45 decides whether the holder 33 has been filled with a particular type of medication . . . when the specified type of medications are charged in the holder 33 . . . the microprocessor 45 selects the holder 33 filled with the medications, drives the holder motor 39 to rotate the holder unit 31, and positions the holder 33 at the inserting opening 6. . . the port of a vial V is positioned under the outlet 33B of the holder 33 and the cover 36 is opened by the handle 37 to fill a vial V with the specified type medications for the holder 33 . . .

As described at Col. 2, lines 32-43, Knudsen discloses a packaging machine including "means for advancing a carrying strip and a covering strip along a path, . . . forming means for creating pockets in the carrying strip, with the pockets being in two rows; loading trays on each side of the path; a divider rail . . . to separate the rows and thereby facilitate manipulation of small objects from the trays into the pockets; and sealing means for sealing the covering strip to the carrying strip together around the pockets." As described at Col. 3, lines 41, the carrying strip 2 and the covering strip 4 are supplied in rolls 6, 8 which are supported on the machine. As described at Col. 12, lines 57-62, "since the strips 2 and 4 are forced into the knurled rims 72 of the drive rollers 170, the strips 2 and 4 advance in unison". Thus, advance of the strips 2 and 4 is provided by the drive rollers 170. The drive rollers provided movement of the strips in only one direction (i.e. along the path through which the strips are fed).

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Initially, Applicant notes that although the Examiner referenced Shimizu it is Applicant's understanding that this reference was in error and that the Examiner intended to reference Takemasa. If Applicant's understanding is incorrect, Applicant requests that the Examiner clarify the rejection of the claims.

As provided in MPEP § 2143.03 "to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Applicant asserts that the combination of Takemasa and Knudsen does not provide each of the elements of Applicant's amended claim 7.

Applicant notes the combination of Takemasa and Knudsen asserted by the Examiner does not result in Applicant's invention. The Examiner asserts that Takemasa discloses two directions of motion "wherein the two directions of motion are generally perpendicular (via by rotation the funnel 33 and moving package V up/down or forward back-word)" Applicant notes that claim 7 requires "automatically effecting relative motion. . . between the common funnel and the. . . cavities". The movement described by the Examiner in connection with Takemasa is not movement between the funnel (33) and the cavities (V). Rather, as described in Takemasa, first the holder unit 31 is rotated and then the vial (V) is inserted by an operator at the opening 6 and mounted on the funnel 33. Thus, the vial V is not positioned within the apparatus until the holder 33 is positioned at the inserting opening 6. Thus, the only relative movement between the holder 33 and the vial V occurs when the operator mounts the vial to the funnel 33. This movement is not automatic as required by claim 7.

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Knudsen does not disclose relative motion which is automatically effected in two directions between the funnel and the cavities of a package wherein the two directions of motion are perpendicular to each other.

Because neither Takemasa nor Knudsen disclose "automatically effecting relative motion in at least two direction . . . wherein the two directions of motion are generally perpendicular", each of the claim limitations is not taught or suggested by the prior art. Furthermore, Applicant asserts that the Examiner's conclusion that the combination of Takemasa and Knudsen provides Applicant's invention is incorrect. If the packaging of Knudsen were provided in combination with the apparatus of Takemasa, the combination would provide movement of the carrying strip 2 of Knudsen underneath the holder 33 of Takemasa. When the carrying strip 2 was positioned under the holder 33, the cover 36 of the holder 33 could be opened to dispense the pharmaceuticals into the cavity of the strip 2. Because the combination of Takemasa and Knudsen does not provide each limitation of amended claim 7, Applicant respectfully requests consideration and allowance of claim 7.

Claims 8-13 depend from claim 7. Applicant asserts that because claim 7 is allowable, claims 8-13 are also allowable. Applicant respectfully requests reconsideration and allowance of claims 8-13.

Newly Added Claims

Claims 14-18 have been added in this amendment. Claim 14 recites method in which the solid pharmaceuticals are dispensed from the drug sources to a common funnel and then to a location corresponding to the product package cavities. As described above with respect

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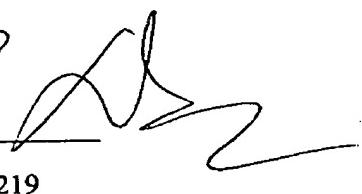
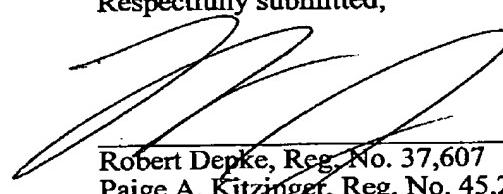
to claim 7, the cited references do not disclose a product package including cavities arranged in rows and columns and relative motion between the funnel and the package in two directions of motion which are perpendicular to each other. Because claim 14 is not anticipated or rendered obvious by the cited references, Applicant asserts that claim 14 is allowable. Applicant respectfully requests consideration and allowance of claim 14.

Claims 15-18 depend from claim 14. Applicant asserts that because claim 14 is allowable, claims 15-18 are also allowable. Applicant respectfully requests consideration and allowance of claims 15-18. Claims 19-20 more clearly specify the motion between the funnel and locations corresponding to the cavities.

Applicant asserts that the claims of the application are allowable over the references cited by the Examiner. Should the present claims not be deemed adequate to effectively define the patentable subject matter, the Examiner is respectfully urged to call the undersigned attorney of record to discuss the claims in an effort to reach an agreement toward allowance of the present application.

Respectfully submitted,

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